

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|---------------------------|---|---------------------------|-------------|
| UNITED STATES OF AMERICA, |) | CASE NO. | 1:05 CR 143 |
| |) | | |
| Plaintiff, |) | JUDGE DONALD C. NUGENT | |
| |) | | |
| v. |) | | |
| |) | | |
| LENELLE GRAY, |) | <u>MEMORANDUM OPINION</u> | |
| |) | <u>AND ORDER</u> | |
| Defendant. |) | | |

This matter comes before the Court upon Defendant, Lenelle Gray's *Motion Request Under Title 18 U.S.C. § 3582(c)(2) for Modification of Sentence Pursuant [sic] Amended Guidelines for Crack Offenses and Amendment Made to Criminal History Points.* (ECF #80).

The government filed a response in opposition to Mr. Gray's motion. (ECF #81). For the reasons set forth below, the Defendant's Motion is hereby, DENIED.

Mr. Lewis seeks a reduction to his sentence based on changes to the Controlled Substances Act and the Controlled Substances Import and Export Act, imposed by the Fair Sentencing Act of 2010, which was enacted on August 3, 2010, after Mr. Gray's sentencing. On June 30, 2011, the Sentencing Commission determined that the Act would be applied retroactively. Retroactive application, however, will not begin until November 1, 2011, and will only take effect if Congress does not modify or override the amendment prior to that date.

The Court has already appointed the Federal Public Defender's Office to assist Mr. Gray in evaluating his eligibility for a reduction, and, if appropriate, filing a motion for reduction under the Fair Sentencing Act once it becomes officially retroactive. (ECF #84). However, at

this time, his Motion must be DENIED as premature. (ECF #80). IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: October 11, 2011